

SOUTH AFRICA / JUDGMENT

S v Maboko (Sentence) (CC50/2023)

[2024] ZALMPPHC 166 (1 November 2024)

[2024] ZALMPPHC 166**COURT**

Limpopo High Court, Polokwane

BEFORE

Monene

CASE / FILE NUMBER

CC50/2023

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record**SAFLII****Note: Certain**

personal/private details of parties or witnesses have been
redacted from this document in compliance with the law
and SAFLII

Policy**REPUBLIC****OF SOUTH AFRICA****IN****THE HIGH COURT OF SOUTH AFRICA****(LIMPOPO****DIVISION, POLOKWANE)****CASE****NO:CC 50/2023****(1)****REPORTABLE: YES/NO****(2)****OF INTEREST TO THE JUDGES: YES/NO****(3)****REVISED.****Signature:****Date:**

2024/11/01

In

the matter between: THE
STATE
And
MABOKO
CHARLES EMMANUEL
(ACCUSED)

JUDGMENT

ON SENTENCE

MONENE AJ

INTRODUCTION

- [1] Mr. Emmanuel Charles Maboko was on 12 September 2024 convicted of three counts of murder, one count of robbery with aggravating circumstances and one count of unlawful possession of a firearm.
- [2] This followed a trial in which he most vocally insisted on conducting his own defence and effectively put up no version as he declined to either cross-examine witnesses nor testify or lead any evidence in his defence. He continued to conduct his own defence in the sentencing proceedings and, like in the trial, refused to lead any evidence nor to address the court in mitigation. The high watermark of his approach of showing up and saying nothing was his emphatic and adamant refusal to co-operate with or at least communicate with a probation officer who had been commissioned to prepare a pre-sentence report in his matter.
- [3] Had it not been for the fact that at the commencement of the trial the state had produced a report in terms of sections 77,78 and 79 of the Criminal Procedure Act 51 of 1977 attesting to a problem free and healthy mental status of Mr. Maboko at both the time of the commission of the offence and at trial, this court would have wondered what this approach of absolute silence by the ever-smiling Maboko meant. But even beyond the report which recorded him to be sane, this court observed that he interacted and related with the proceedings in a manner reflective of a sound and sober person. His was just a curious trial strategy.
- [4] I proceed then to consider what the appropriate sentences should be in the light of mitigatory, and aggravating circumstances availed to me and applicable legal instruments.
- [5] In *S v Jabulani Vusi Mhaule*(CC05/2020) a decision of Ratshibvumo AJ(as he then was) out of the Mpumalanga Division of the High Court delivered on 12 February 2020, and at paragraphs 2 and 3 thereof, the court succinctly captured the ethos attendant to sentencing as follows:

"As Plasket J (as he then was) observed in *S v Arends and Others* [2010] ZAECGHC 16(1 March 2010), the imposition of sentence is not a mechanical process in which predetermined sentences are imposed for specific crimes. It is a nuanced process in which the court is required to weigh and balance a variety of factors to determine a measure of the moral, as opposed to legal, blameworthiness of an accused. That measure is achieved by a consideration, and an appropriate balancing, of what the well-known case of *S v Zinn* 1969(2) SA 537(A) at 540G-H described as a 'triad consisting of the crime, the offender and the interests of society'.

A sentencing court does not always have an untrammelled discretion to determine sentence-a clean slate on which to work. In certain cases-and this applies to the charge the accused was convicted of-prescribed minimum sentences as provided for by the Criminal Law Amendment Act 105 of 1997(CLAA) ..."

[6] It seems to me from the above authority and from a reading of Act 105 of 1997(CLAA), that while sentencing remains primarily in the judiciously exercised discretion of the court, the point of departure is whether the offence for which a person is convicted attracts a minimum sentence and then to consider the Zinn triad as the sentencing court navigates whatever evidence or further considerations are before it as both mitigating and aggravating factors. It is in considering those factors, where minimum sentences apply, that, within the prism of the Zinn triad, the sentencing court must also consider whether, in terms of section 51(3)(a) of CLAA, there are any substantial and compelling circumstances justifying the imposition of a sentence lesser than the minimum sentence prescribed by the legislature.

DO THE OFFENCES FOR WHICH MABOKO WAS CONVICTED ATTRACT CLAA?

[7] Section 51(1) of CLAA in terms of which the three counts of murder were put and explained to Maboko reads as follows:

"(1) Notwithstanding any other law, but subject to subsections (3) and (6), a regional court or a High Court shall sentence a person who has been convicted of an offence referred to in Part 1 of Schedule 2 to imprisonment for life."

[8] The state locates the three murder convictions within Part 1 of Schedule 2 and thus under section 51(1) on the following reasoning:

8.1 That the murder in count 1, that of Mr Mohamed Aber Tayob, was premeditated as contemplated in Part 1(a) of schedule 2 of the schedules under CLAA.

8.2 That the murder in count 2, that of Mr Putana Lucas Malatji, was premeditated as contemplated in Part 1(a) of schedule 2 of the CLAA schedules.

8.3 That the murder in count 3, that of Mr Edward Muofhe Luvhimbi, was premeditated as contemplated in Part 1(a) of schedule 2 of the CLAA schedules and further attracts the prescribed sentence of life imprisonment on account of it having been committed in the process of committing robbery with aggravating circumstances as contemplated in Part 1(c)(ii) of schedule 2 of the CLAA schedules.

[9] As I understand premeditation, it speaks to a thought process engaged in by an offender regarding the commission of an offence before committing it. Whether such a reflection on or thinking about or meditating on an offence obtains in each matter, is a question of evidence. Suffice to say that on the extreme sharper side of premeditated murder would be planned murder or so-called organized pre-planned murder and on the lesser blunter side of it would be murder committed on the spur of the moment. Premeditated murder lies in the middle of that spectrum. Thus, in my view, a premeditated murder would be one which did not occur unexpectedly or spontaneously, one which was not a result of planning or an elaborate arrangement of any kind but one to which, as per evidence led, the offender applied some thinking about, meditation on or reflection on before it happened. Strands of evidence such as where the instrument used to commit the murder was retrieved from or kept before its employ, why and how it was kept there, what triggered the act which caused death, the time lapse between the probable thought process and

the actual murderous act and all other surrounding circumstances, all cumulatively, and never individually, play a role in the

determination of whether the middle road that is premeditation between planned and spontaneous obtains or not.

[10] The Supreme Court of Appeal in *Kekana v S* (629/2013)[2014] ZASCA 158 (1 October 2014) held that the extent of the time lapse between the thinking about or meditation upon the act and the actual act was not germane to the determination of whether a murder is premeditated or not as even a few minutes are sufficient to carry out the action on a premeditated basis. That really says to me that the question is really whether evidence proves that an offender applied a thought process or meditation before the act or not. My view is that if it was not spontaneous,

spontaneous being spur of the moment or impulsive and if it was not pre-planned, then it was premeditated.

[11] The court in *S v Raath* 2009(2) SACR 46(CPD) at para16 appears to have already held a view not dissimilar to mine when it stated, inter alia, as follows:

"Planning and premeditation have long been recognized as aggravating factors in the case of murder. See *S v Khiba* 1993(2) SACR 1(A) at 4 and *S v Ma/gas* 2001 (1) SACR 469(SCA) at para 34 ...However, there must be evidence that the murder was indeed premeditated or planned. See e.g *S v Makatu* 2006 (2) SACR 582(SCA) at paras 12-14. The concept of a planned or premeditated murder is not statutorily defined ... Clearly the concept (of premeditation) suggests a deliberate weighing up of the proposed criminal conduct as opposed to the commission of the crime on the spur of the moment or in unexpected circumstances. There is, however, a broad continuum between the two poles of a murder committed in the heat of the moment and a murder which may have been conceived and planned over months or even years before its execution. In my view only an examination of all the circumstances surrounding any particular murder, including not least the accused's state of mind, will allow one to arrive at a conclusion as to whether a

particular murder is "planned or premeditated". In such

an evaluation the period of time between the accused forming an intent to commit the murder and carrying out this intention is

obviously of cardinal importance but, equally, does not at some arbitrary point, provide a ready-made answer to the question of

whether the murder was "planned or pre-meditated".

- [12] I have no doubt that, on the evidence led before me, neither of the three murders for which Mr. Maboko was convicted were acts of spontaneity. There was nothing spur of the moment about how an armed Mr. Maboko met a jogging deceased in count one, turned around in his motor vehicle, stopped the motor vehicle and pumped multiples of bullets into the deceased even whilst the deceased had fallen to the ground. Similarly, there is no doubt in my mind that the deliberate actions of an armed Mr. Maboko in driving to the Burgersfort area and to the home of the deceased in count two, calling him outside to his car and shooting him dead in cold blood are not spur of the moment stuff. I make the same finding in count three where Mr. Maboko cold bloodedly shoots the deceased once with one firearm and the puts it away only to retrieve from his person another firearm and shoot the deceased again. The deliberateness of it all, even if it can be said that the deceased happened to be at the BMW shopfloor per chance on that fateful morning, does not persuade me that the deceased in count 3 was shot unexpectedly or without a preceding, albeit within a short period of time, thought or meditation process. At any rate, as regards the third murder count, the sentence to be imposed locates itself within section 51(1) on account of the murder having been committed in the process of committing robbery with aggravating circumstances as contemplated in Part 1(c)(ii) of Schedule 2 as alluded to above already..
- [13] In all the premises I have no doubt that the three murder counts on which Mr. Maboko was convicted attract the minimum sentences Act and in particular section 51(1) thereof which prescribes life imprisonment as a minimum sentence.
- [14] Count four of Robbery with aggravating circumstances as defined in section 1(1) of Act 51 of 1977 is an offence listed in Part 2 of schedule 2 which in the case of a first offender, like Mr Maboko, attracts a minimum sentence of not less than 15 years' imprisonment.
- [15] Count five of contravention of section 3, read with sections 1, 103, 117, 120(1)(a), section 121 read with section 4 and 151 of the Firearms Control Act 60 of 2000 and further read with section 250 of the Criminal Procedure Act 51 of 1977, Unlawful possession of a firearm, ordinarily attracts a minimum sentence of 5 years imprisonment but when the charge was put to the accused it was not read with the provisions of CLAA.

[16] Having located the three murder and the robbery with aggravating circumstances convictions squarely within the dictates of CLAA, what I must determine next is what picture the mitigatory and aggravating factors paint on the Zinn triad canvas before me and whether any of those trigger a deviation from the already stated prescribed minimum sentences.

THE EVIDENCE LED IN MITIGATION AND AGGRAVATION OF SENTENCE

[17] As in the trial itself, Mr. Maboko refused, despite being asked repeatedly and on several occasions, to tender any evidence in mitigation of sentence either from the witness box or informally from the accused's dock.

[18] He even refused to give out information, on being specifically asked by this court, as to his personal circumstances like his age, his marital status, whether he has any children, any parents, any siblings, where he resided and whether he owns any property. He responded to every question on that with a standard answer to the effect that he does not want to say or reveal anything.

[19] As intimated supra already Mr. Maboko refused to even talk with a probation officer who had been tasked with preparing a pre-sentence report in mitigation of sentence. The probation officer in question, Ms. Murovhi, testified under oath to confirm Mr. Maboko's unwillingness to engage with her and handed up a letter, Exhibit Z, she had written to the state to communicate Mr. Maboko's unwillingness to engage and lack of cooperation.

[20] Effectively therefore, all that this court could scrap out regarding mitigatory factors in favour of Mr. Maboko was the following:

20.1 That he does not have any previous convictions as per the SAP69 record handed up by the state,

20.2 That he is 35 years old, at least as per his Identification number, to wit 8[...] as gleaned from Exhibit F, his motor vehicle registration documents.

[21] In aggravation of sentence the state led victim statement reports per the three witnesses, each pertaining to each of the three murder charges on which Mr. Maboko was convicted. These witnesses were Hava Tayob, Mamolato Eva Matemane and Vhonani Agnes Luvhumbi for counts 1, 2 and 3 respectively.

[22] In sum their evidence was as follows:

22.1 Hava Tayob, a sister of the deceased in count one, testified that the deceased who was unmarried and had no children of his own, was the eldest of four siblings, who ever since their father's death was the patriarch of the entire family. A university professor and qualified chartered account, he was the breadwinner of the entire Tayob clan of descendant from their father, Hava testified. She tearfully testified that the deceased took care of all the financial needs of the close-knit family inclusive of nephews and nieces and in particularly took care of their elderly 73-year-old mother. Following the deceased's demise the family struggled to make ends

meet such that they had to sell the family house downgrading into something smaller and without the amenities the family were used to. They no longer go for holidays which used to be financed by the deceased and the entire family was psychologically distressed, she testified. Hardest hit among the family, this court was informed, was the deceased's mother who continues to struggle to find closure forever asking without any answer as to why her son was killed and what her son's last words were, while her health had in the wake of the brutal killing of her son taken a turn for the worst. Hava testified that the murder of her brother had destroyed and disintegrated a once united family whose key bond or glue was the deceased. This court also learnt through the provision of documentary evidence attached to Hava's victim impact statement that no lesser institutions than the South African Institute of Chartered Accountants (SAICA) and the National Assembly of this country had been touched by the murder of the deceased that they issued formal condolences to the family. It was Hava's further testimony that it was through the deceased that the Limpopo Province started to train Chartered Accountants through the introduction of these studies for the first time at the University of Limpopo. She noted rather bitter-sweetly that shortly after his death the deceased's students achieved a remarkable 71 percent pass rate in SAICA exams and their mentor, the deceased, was robbed of an opportunity to witness the results of his immense contribution. Although in her victim impact state she pleaded for the highest jail sentence possible without the option of parole, in her viva voce evidence, she tearfully and exasperatedly expressed a wish that Mr. Maboko could be sentenced to death, calling it an eye for an eye.

22.2 Mamolato Eva Matemane testified that the deceased in count two, Putana Malatji, was her nephew as in being a son of Mamolato's younger sister. She spoke of the deceased as a jolly and lively person who had been tasked with taking care of his grandfather Mamolato's aged father. She testified about how the murder of the deceased had aggravated the ill-health of the grandfather to a point of being bedridden and that ever since the death of Putana, the grandfather had kept on continually calling out the deceased's name refusing to believe that he was no more. She testified further that the death of the deceased had left a void in their entire family and that she was particularly perturbed by the fact that according to her Mr. Maboko was not remorseful as he kept smiling throughout the proceedings as if their pain was a joke to him. She prayed for Mr. Maboko to be sentenced to life imprisonment.

22.3 Vhonani Agnes Luvhumbi, the wife to the deceased in count 3, who was also previously called by the state during the state's case to identify the then disputed identity of the deceased, gave a tear-jerker of evidence which can best be covered by a direct quote from her victim impact statement which reads as follows at its

introduction:

"What a wonderful man he was. Our pillar, anchor and the cornerstone of our family. My husband was the true epitome of love and kindness. My husband was a responsible man who dedicated all his life to the betterment of our family. When we met, he shared with me his vision for our life and our family. Over the years and from our very humble beginnings, I watched him

dedicate his entire life and work tirelessly to ensure that the vision comes to pass, and through all this, ensuring that I, the children and extended family, lacked for nothing. I am heartbroken that he was so brutally killed as he was just starting to see the fruits of his labour. His loss and absence in my life and in our home is tangible. He was always there, and his unique laughter, filled our home with warmth and joy. I am shattered beyond words. I am empty. Two years on and the wound continues to bleed. How do I lead our family alone. How do I continue with the vision without him, my visionary?"

We heard from this witness that the deceased took care not only of his immediate family, but of his sister's family and his aged mother. His aged mother, it was testified, had depended on the deceased and forever cries that he should have been the one to bury her as opposed to having to bury his son. Mrs. Luvhuwani testified further that her husband was a teacher loved by and loving his students such that most of the former students are now family. We heard further that the deceased had a special bond with his children, attended to test driving all his children's first cars at least for the first month post purchase and was, on the fateful day, at BMW Nirvana workshop to attend to repairs on his son's new motor vehicle. She tearfully, amidst persistent sobs, expressed a deep loss for her, her children, her family and the entire community and wondered whether the smiling Mr. Maboko will ever appreciate the intense pain he had caused them. She prayed for the harshest sentence available and acknowledging that the death penalty was not available in our law, stated that it was one sentence that Mr. Maboko deserved.

- [23] None of these witnesses called in aggravation of sentence were cross-examined by Mr Maboko and their victim impact statements were accepted into evidence as exhibits without any objection with Mr. Maboko responding to any question with his trademark statement that he had nothing to say.
- [24] With Mr. Maboko again declining to say anything when called upon to address the court in mitigation of sentence, Mr. Mashiane, for the state, addressed the court in aggravation of sentence, the high watermark of his address being the absence of remorse by Mr. Maboko, the absence of mitigating factors and the call for the imposition of minimum sentences on all five counts on which Mr. Maboko had been convicted.
- [25] There being no personal circumstances of the accused to write about except his clean criminal record and relative youth status at 35 years, what remains of the Zinn triad to briefly be reflected upon is the nature of the crime and the interest of the society.
- [26] That the offence of murder is a very serious offence needs no belaboring. It is worse where one is convicted of taking not one life but three. Compounding that is where the motive for the senseless murders, as in casu, remains a mystery and people's lives have just been snuffed out like birds in the air taken out by stones from a slingshot of a hunter hunting for fun. The right to life in this country is sacrosanct and that is why even mass murderers and multiple rapists who undermine it grossly are still constitutionally protected from losing their own lives as punishment for their hideous acts. That speaks in short to how serious murder should be looked at as a crime because it is an act which smugly middle fingers the

constitutional right to life.

- [27] Societal interests germinate from immediate family and then extended family interests. Thereafter, they graduate into village, ward, region, province and national interests. I need not restate the evidence of the next-of-kin of the deceased in the murder charges as well as how the deaths of heroes of communities such as Professor Tayob and Mr. Muofhe Livhuwani affected the society at large. Losses to the immediate family members of the three deceased manifest into losses for the student communities and families of those who benefitted from the skills of the professor and the educator as well as those in the future, who would have continued to benefit in the same fashion in the future. Furthermore, society is interested in being safe from those, like Mr. Maboko, who callously and nonchalantly threaten their very existence, those who abrogate to themselves the authority to decide when a person must die, no matter the harsh consequences, as testified to in aggravation, which may be visited upon next of kin and community alike. Harsh consequences like tough unbearable economic conditions experienced by all three bereaved families, and particularly the searing, piercing pain felt by Mr. Tayob's mother, Mr. Malatji's grandfather, Mr. Livhuwani's wife and Mr. Livhuwani's mother.
- [28] Thus I find my way cleared to finding that the seriousness of the offence and the interests of society in this matter far outweigh the virtually non-existent personal circumstances of the accused in this matter. Furthermore, given the three theories of punishment, to wit, reformation of the accused, retribution for the offences committed and deterrence of the offender and other would be offenders of Mr. Maboko's ilk, I find that deterrence and retribution far outweigh reformation on the facts of this case, regard being had to the callous manner in which all the offences were committed, all in broad daylight as well as the smug and nonchalant manner Mr. Maboko conducted his trial and himself in this trial, displaying a remorseless, regretless attitude of what almost, but for the unproven motive, can be called a smiling assassin. Mr. Maboko has absolutely, in my view, not displayed himself as a person remotely reformable. In this view therefore, of attaching more weight to retribution and deterrence above reformation, I draw counsel from the SCA in *S v Swart* 2004(2) SACR 370(SCA) at 378 8-C where it was held as follows:

"In our law retribution and deterrence are proper purposes of punishment and they must be accorded due weight in any sentence that is imposed. Each of the elements of punishment does not require to be accorded equal weight but instead proper weight must be accorded to each according to the circumstances. Serious crimes will usually require that retribution and deterrence should come to the fore and that the rehabilitation of the offender will consequently play a relatively smaller role."

- [29] In the same vein, it calls for no rocket scientist, a Johnny Cochrane nor a Muzi Sikhakhane SC to help determine that on the meagre and threadbare personal circumstances of the convict in *casu*, perused through the prism of the Zinn triad, there are no substantial and compelling circumstances as per section 51(3) of CLAA militating for deviation from the minimum sentences prescribed in terms of the CLAA. Equally section 51(6) of CLAA does not find application as Mr. Maboko, at 35 years of age, is by no means an under 16-year-old.
- [30] *S v Malgas* 2001(1) SACR 469 (SCA) is an established authority on the trite principle that minimum sentences should not be deviated from for flimsy reasons. In this case there are simply no reasons calling for deviation, flimsy or not. There are just no grounds or reasons or considerations in Mr. Maboko's See-No-Evil, Hear-No-Evil, Speak-Nothing, Contest-Nothing and Smile-All-the-way litigation strategy to remotely suggest not effecting the minimum sentences prescribed for counts one to four, about which in several appearances prior to the commencement of the trial and at the commencement of the trial he was made aware of and even openly professed knowledge of as he insisted on appearing in person, in this matter.
- [31] In giving evidence in aggravation of sentence, all three state witnesses prayed that the sentence imposed be stated to be without the option of parole. The state counsel, on being asked on whether the without parole sentiment is what he was praying for, indicated that he was not making such a submission. Much as I understand that sentiment and the good place it comes from the witnesses in their outrage against the senseless crimes committed by Mr. Maboko in this case, I am disinclined to order that whatever sentence or sentences I impose in this matter be recorded as being without parole. That would be encroaching not only on the administrative roles of parole boards and usurping their statutorily granted roles but will also be appropriating the future whose variables are to all of us unknown. Justice may be blind, but it should neither be angrily vengeful nor arbitrary, informed by the present to place restrictive formulas for an unknown future. We are decision makers in the present and not pre-emptive and restrictive judicial prophets wont to arrest and pre-determine or ordain the future.
- [32] A sentiment in the evidence of the witnesses called by the state in aggravation of sentence and most probably shared in the public sphere, has been expressed that perhaps a more appropriate sentence in offences like the ones for which Mr. Maboko was convicted would be a death sentence. Everyone now knows that in the wake of *S v Makwanyane* 1995(3) SA 391 ("Makwanyane") and section 11 of the constitution, the right to life, death as a sentence for criminal conduct is not available in this country. But questions continue to be asked by the unheard weeping and mourning yet to roar majority of our people, the backdrop of death sentences imposed in an unjust colonial and apartheid past and that past informing the noble truism of section 11 of the constitution and the Makwanyane rationale notwithstanding, whether ours, in continuing to uphold the right to life of them that brutally and inhumanely denied others of that very right, is not a case of a truth taken to the extreme to become bondage. They ask with pained expressions amidst certain uncertainty and a fear

of being castigated as blood-thirsty, non-enlightened and untransformed stone-agers, why established old democracies we appear to hold in high esteem like the United States of America as well as low level crime neighbors like Botswana continue to have the death penalty available in their law and they go on to question our obstinacy or rather our constitutionalist enlightenment's correctness in holding out that one can massacre hordes of people, rape and kill multitudes of children or decimate the whole country and still deserve to live. But I digress because as

courts we owe fidelity to the law, and particularly the supreme law of the land, the constitution, which law of course has a section 74, to which the weeping masses of our people, if they exist, can always avail themselves through the power of their voices and votes, should they perhaps decide to stop their muffled weeping and begin to roar. It is constitutional, in my view, to amend the constitution. Until then, the sentencing law as is, and as exposed supra, must apply.

[33] What then, in the light of all the foregoing, should the appropriate sentences for the five offences on which Mr Maboko has been convicted, be? Having considered all the aspects above, the following sentences are imposed:

33.1 Count 1, the murder of Mohamed Saber Tayob: Life imprisonment

33.2 Count 2, the murder of Putana Lucas Malatji: Life imprisonment

33.3 Count 3, the murder of Edward Muofhe Luvhimbi: Life imprisonment

33.4 Count 4, the robbery with aggravating circumstance as described in section 1 of Act 51 of 1977 at Superbia Nirvana: 15(fifteen) years imprisonment.

33.5 Count 5, Unlawful possession of a firearm (Contravention of section 3 read with sections 1, 103, 117, 120(1)(a), section 121 read

with section 4 and 151 of the Firearms Control Act 60 of 2000 and further read with section 250 of the Criminal Procedure Act 51 of 1977): 3(three) years imprisonment.

33.6. No order is made in terms of section 103 of the Firearms Control Act 60 of 2000, which means that Mr Maboko is automatically unfit to possess a firearm.

34. I was invited by Mr. Mashiane, on behalf of the state, not to order the sentence for the unlawful possession of a firearm to run concurrently with the robbery with aggravating circumstances sentence ostensibly on the basis that Mr. Maboko had, despite having a licensed firearm, opted to still possess and utilize an unlawful one. I do not really understand whether the essence or moral of the submission, if there be morality in crime, was that armed robbers who use licensed firearms are less blameworthy than those who use unlicensed firearms or not but whatever the reasoning was, I am not persuaded by that reasoning. Thus, the sentence in count 5, the three-year sentence, is ordered to run concurrently with the fifteen-year sentence for robbery.

35. I am alive to the fact that a human being has on this planet only one life to live until his death. I am equal aware that it is trite that a sentence imposed on a convicted person should be one that is capable of being served. That said, I am not ordering concurrency on any of the life imprisonment sentences nor the robbery with aggravating circumstances with any of the life imprisonment

sentences. I am unsettled with unwittingly creating an impression that, in our law, if a person commits an offence which attracts life imprisonment, he may well with impunity commit further serious and/or similar offences safe in the knowledge that they will be served concurrently in some abominable get three or more offences for the price of one arrangement. My sense of what is just does not permit me to order concurrency, on the facts of this case and for what it is worth, it will perhaps help counterbalance the family and community interest sentiment of no parole, which I earlier rejected as unavailable in our law, if and when parole may be considered by the relevant authorities in the future.

[36] I hand down the judgement on sentence.

MALOSE.S. MONENE

ACTING JUDGE OF THE HIGH COURT,

LIMPOPO DIVISION, POLOKWANE

APPEARANCES

Last heard on

: 25 October 2024

Judgement

delivered on : 01 November 2024

For the State

: Adv. L L Mashiane

: Instructed by OPP Limpopo, Polokwane

For the Accused : Appears in person

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZALMPPHC/2024/166.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/s-v-maboko-unknown-topic-almpphc-2024>

Prepared on 9 October 2026 · Esheria